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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,876	09/16/2005	Kevin R. Easton	ILSC-24B	5889
26875 7590 12/02/2008 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202				
EXAMINER FERGUSON, MICHAEL P				
ART UNIT		PAPER NUMBER		
3679				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,876

Applicant(s)

EASTON, KEVIN R.

Examiner

MICHAEL P. FERGUSON

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-9 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) 6-9, 11 and 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 12, 13 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 14, 2008 has been entered.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 2-9, 12-16 and 21, drawn to a swivel adapter.

Group II, claim(s) 17-20, drawn to a base unit handle.

3. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The swivel adapter of Group I comprises the special technical feature of a boss extending from an outboard side of an elongated base of the swivel adapter and having a pivot surface pivotally receiving a center adapter. The base unit of Group II comprises

the special technical features of a body having first and second split bores receiving a shaft and a bar, respectively, and a linkage pivotally connected to a handle and a rod of the base unit providing a mechanical advantage in transferring a force applied from the handle to the rod. Groups I and II lack the same corresponding special technical features and fail to correspond to a single inventive concept.

4. Group I of this application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I shown in Figures 1-5

Species 2 shown in Figures 9-11

If the Applicant elects Group I, as set forth above, Applicant is also required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. The claims are deemed to correspond to the species listed above in the following manner:

Species 1: 2-5, 12, 13 and 21

Species 2: 6-9, 11 and 14-16

There are no generic claims.

6. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Species 1 discloses a swivel adapter wherein the pivot surface is on a cylindrical boss and the center adapter has a split bore mountable over the cylindrical boss, wherein the clamp comprises a handle pivotally connected to the center adapter on one side of the split bore. Species 2 discloses a swivel adapter comprising a threaded member extending in the outward direction beyond the pivot surface; and a knob disposed against a side of the center adapter and extending in the outward direction, the knob being engageable with the threaded member, whereby tightening the knob on the threaded member locks the center adapter against the base at a desired orientation and loosening the knob releases the center adapter to be pivotable on the pivot surface. Species 1 and 2 lack the same corresponding special technical features and fail to correspond to a single inventive concept.

7. During a telephone conversation with Thomas J. Burger on November 24, 2008 a provisional election was made without traverse to prosecute the invention of Species 1, Figures 1-5, claims 2-5, 12, 13 and 21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 6-11 and 14-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

8. Claims 4, 12 and 21 are objected to because of the following informalities:

Claim 4 (line 3) recites "clamped to unclamped". It should recite --the clamped orientation to the unclamped orientation--.

Claim 12 (line 15) recites "comprising". It should recite --comprising: --.

Claim 12 (line 22) recites "clamp operator". It should recite --clamp--.

Claim 21 (line 1) recites "comprising". It should recite --comprising: --.

Claim 21 (line 7) recites "an adaptor". It should recite --a center adaptor--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 2-5, 12, 13 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 (lines 4-5) recites “the rocker and rod operatively connected so as to span the split bore and also to define oppositely directed first and second shoulders”. It is unclear as to on which element such first and second shoulders are defined. Claims 4 and 5 depend from claim 3 and are likewise rejected.

Claim 12 (lines 5-6) recites “the inboard side including a connector for removably connecting a head support on the inboard side of the base”. Claim 12 fails to positively recite any structural limitations which clearly define what structurally constitutes such connector or head support. It is unclear as to what structurally constitutes the connector, and as to how the connector structurally engages and functionally interacts with the other elements of the claimed swivel adaptor. Claim 13 depends from claim 12 and is likewise rejected.

Claim 12 (lines 13-14) recites “a device connector facing in the outward direction, the device connector adapted to removably hold a device”. Claim 12 fails to positively recite any structural limitations which clearly define what structurally constitutes such device connector or device. It is unclear as to what structurally constitutes the device connector, and as to how the device connector structurally engages and functionally interacts with the other elements of the claimed swivel adaptor.

Claim 12 (lines 19-20) recites “the rocker and rod operatively connected so as to span the split bore and also to define oppositely directed first and second shoulders”. It is unclear as to on which element such first and second shoulders are defined.

Claim 21 (line 4) recites “a head support connection located at the inboard side of the first end of the base”. Claim 21 fails to positively recite any structural limitations

which clearly define what structurally constitutes such head support connection. It is unclear as to what structurally constitutes the head support connection, and as to how the connection structurally engages and functionally interacts with the other elements of the claimed swivel adaptor. Claims 2-5 depend from claim 21 and are likewise rejected.

Claim 21 (lines 8-9) recites "the adapter having a first device connector facing in the outboard direction, the first device connector adapted to removably hold an additional device". Claim 21 fails to positively recite any structural limitations which clearly define what structurally constitutes such first device connector or additional device. It is unclear as to what structurally constitutes the device connector, and as to how the device connector structurally engages and functionally interacts with the other elements of the claimed swivel adaptor.

Claim 21 (lines 11-13) recites "the shank operable to cooperate with the head support connector to removably secure a head support to the inboard side of the base". Claim 21 fails to positively recite any structural limitations which clearly define what structurally enables the shank to engage the head support connector, the head support or the base. It is unclear as to how the shank structurally engages and functionally interacts with the other elements of the claimed swivel adaptor.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFadden in view of Riach (US 5,177,823).

As to claims 12 and 13, McFadden discloses a swivel adapter connectable to, and extending outward from, a head support comprising:

an elongated base **28** having upper and lower ends comprising:

an outboard first side facing in an outward direction away from the swivel adapter and an inboard side facing in an inward direction, the inboard side including a connector **U** for removably connecting a head support on the inboard side of the base (Figure 1 reprinted below with annotations), and

a pivot boss **V** extending from the outboard side in the outward direction and having a pivot surface;

a center adapter **26** mounted for pivoting motion on the pivot surface of the boss, and further comprising:

a split bore **36** formed therein and oriented perpendicular to the boss, and

a device connector **30** facing in the outward direction, the device connector adapted to removably hold a device **24**;

a clamp comprising:

a handle **L** pivotally connected to the center adapter on one side of the split bore,

a rocker **38** pivotally connected to the center adapter on an opposite side of the split bore (rocker **38** is pivotally rotated [rocked] on the threaded end of rod **42**; Figure 3), and

a rod **42** pivotally connected to the handle, the rocker and rod operatively connected so as to span the split bore and also to define oppositely directed first and second shoulders **Y,Z** (Figure 3 reprinted below with annotations); and

the handle being operable to clamp the center adapter on the pivot surface of the boss at a desired orientation, and to unclamp the center adapter from the pivot surface of the boss, thereby allowing the center adapter to rotate with respect to the boss so as to locate the device connector at a desired rotated position relative to the boss (Figures 1 and 3).



McFadden fails to disclose a swivel adapter wherein the clamp comprises biasing means disposed between the first shoulder and the second shoulder for facilitating movement of the clamp from a clamped orientation to an unclamped orientation, wherein the biasing means is a plurality of Belleville springs.

Riach teaches a clamp **15** comprising biasing means comprising Belleville springs **21,22** disposed between a first and second shoulders of the clamp for facilitating movement of the clamp from a clamped orientation to an unclamped orientation; springs **21,22** constantly resiliently bias clamp elements **12,13** away from one another so that, when rod **24** is in an unclamped position, the clamping force between the clamp elements is automatically released (Figures 5 and 6, column 8 lines 14-22). Accordingly, it would have been obvious to one having ordinary skill in the art at the

time the invention was made to provide the swivel adapter disclosed by McFadden with biasing springs as taught by Riach in order to resiliently bias the first and second shoulders away from one another so that, when the rod is in an unclamped position, the clamping force between the split bore and the cylindrical boss is automatically released.

Allowable Subject Matter

13. Claims 2-5 and 21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

14. The following is a statement of reasons for the indication of allowable subject matter:

As to claim 21, McFadden discloses the claimed swivel adapter with the exception of the boss defining a pivot surface thereabout and a passage therethrough; and comprising a handle operatively connected to the boss, the handle having an elongated shank extending through the cylindrically shaped opening of the adapter and also through the passage, the shank operable to cooperate with the head support connector to removably secure a head support to the inboard side of the base; the pivoting of the center adapter about the boss via the clamp operator being independent of the removable securement of a head support via the handle, with both the clamp operator and the handle being controllable from the outboard side of the base.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the swivel adapter disclosed by McFadden to have the above mentioned elemental

features. Furthermore, such modifications would yield unexpected and unpredictable results.

Response to Arguments

15. Applicant's arguments filed November 14, 2008, in regards to claims 12 and 13, have been fully considered but they are not persuasive.

As to claim 12, Attorney argues that:

McFadden does not disclose a swivel adapter comprising *a pivot boss extending from the outboard side in the outward direction and having a pivot surface; and a center adapter mounted for pivoting motion on the pivot surface of the boss, and further comprising a split bore formed therein and oriented perpendicular to the boss, and a device connector facing in the outward direction, the device connector adapted to removably hold a device.*

Examiner disagrees. As to claim 12, McFadden discloses a swivel adapter comprising a pivot boss **V** extending from the outboard side in the outward direction and having a pivot surface; and a center adapter **26** mounted for pivoting motion on the pivot surface of the boss, and further comprising a split bore **36** formed therein and oriented perpendicular to the boss, and a device connector **30** facing in the outward direction, the device connector adapted to removably hold a device **24** (Figures 1 and 3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
11/25/08

/Michael P. Ferguson/
Primary Examiner, Art Unit 3679